IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant:	HAHN-CARLSON	Examiner:		Backer, F.
Serial No.:	09/527,717	Group Art Unit:		3621
Filed:	March 17, 2000	Docket No.:		USBA.004PA
Title:	VALIDATION APPROACH FOR AUDITING A VENDOR-BASED TRANSACTION			

APPEAL BRIEF

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Commissioner For Patents
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Dear Sir:

     This Appeal Brief is submitted pursuant to 37 C.F.R. §41.37, in support of the Notice of Appeal filed on July 16, 2007 with a Petition for One-Month Extension of Time, and in response to the rejection of claims 13 and 16-26 as set forth in the Final Office Action dated March 15, 2007, and in further response to the Advisory Action dated June 5, 2007.

     Please charge Deposit Account number 50-0996 (USBA.004PA) $510.00 for filing this brief in support of an appeal as set forth in 37 C.F.R. §1.17(c). If necessary, authority is given to charge/credit Deposit Account 50-0996 additional fees/overages in support of this filing.

I.   Real Party In Interest

The real party in interest is U.S. Bank National Association, having a principal place of business at 800 Nicollet Mall, Suite 200, Minneapolis, Minnesota 55402. The above-referenced patent application is assigned at Reel/Frame No. 012167/0049 to FBS Card Services, Inc.

II.   Related Appeals and Interferences

Appellant is unaware of any related appeals or interferences.

III.   Status of Claims

Claims 1-12 stand canceled. Claims 14-15 stand withdrawn following a restriction requirement dated May 22, 2006. Claims 13 and 16-26 stand rejected and are presented for appeal. Claim 27 was not listed in any rejection in the Final Office Action, nor was it listed as rejected or allowed in the Advisory Action; while Applicant believes claim 27 to be allowable, claim 27 has been addressed under the Argument section in an abundance of caution. The pending claims under appeal, as well as claim 27, are listed in the attached Claims Appendix.

IV.   Status of Amendments

Claim 22 was amended in the Response to Final Office Action filed on May 14, 2007. As the Advisory Action dated June 5, 2007 (PTOL-303) is silent regarding the proposed amendment after final, Appellant infers that the amendment to claim 22 has been accepted for purpose of appeal, and is thus displayed in the Appendix. No other amendments have been filed subsequent to the Final Office Action dated March 15, 2007.

V.   Summary of Claimed Subject Matter

The present invention relates to transaction processing involving services provided from a vendor (and, in some applications, subvendors), and processed by a service provider. The present invention is exemplified in a number of implementations and applications, some of which relate to the following.

As is consistent with various claims, transactions are processed for applications involving a vendor or vendor/subvendor combination that sell services to buyers, with the services being

provided by subvendor-controlled merchant offering providers. For instance, some embodiments are applicable to shipping transactions, where a buyer purchases carrier services from a vendor, with the actual carrier services (*i.e.*, the movement of goods) carried out by a vendor-controlled (or subvendor-controlled) service provider. In some instances, the vendor includes two entities at different levels as a vendor and subvendor, with the vendor interacting directly with the buyer and the subvendor directing or otherwise controlling the service provider. *See, e.g.*, page 48:13 – 49:3. Such an approach is applicable, for example, where a vendor sells goods and shipment of the goods to a buyer, with a subvendor manufacturing the goods and controlling a carrier to ship the goods from the subvendor to the buyer.

As is consistent with claim 13, example embodiments are directed to transaction processing approaches involving transaction information related to services provided from a vendor and one of plurality of subvendors and processed by one of a plurality of subvendor controlled merchant-offering providers. *See, e.g.*, FIG. 12 and discussion at pages 38:20-39:21. A method for validating a service transaction for auditing includes generating transaction information prior to processing by subvendor, and providing an authorized profile list criterion that includes information about authorized users empowered to authorize payment by the vendor. See, e.g., FIG. 12 and discussion at page 38:25-28 and 39:17-21. Using a computer arrangement, data relating to the authorized profile list criterion is maintained and the transaction information is processed by determining whether the transaction information satisfies the authorized profile list criterion. *See, e.g.*, page 39:12-21 and following discussion with FIG. 13 at page 39:22 – 40:23. The authorized profile list criterion is used to generate information for auditing a transaction between said one of a plurality of vendors and said one of a plurality of merchant-offering providers (*see* id).

As is consistent with claim 16, a transaction validation system for auditing (*see, e.g.*, FIG. 12 and discussion at pages 38:20-39:21) is used for transaction processing involving transaction information related to services provided by one of a plurality of vendors and processed by one of a plurality of merchant-offering providers. The system includes a central processor arrangement (e.g., 1240 in FIG. 12) programmed and configured to maintain data relating to an authorized profile list criterion and to business rules, the business rules defined according to the authorized profile list criterion. The central processor arrangement further processes a business transaction

submitted by an authorized user by using the authorized profile list criterion to determine that the user is authorized to perform the business transaction and by applying the business rules to perform the business transaction (*see, e.g.,* above discussion with FIG. 12 and page 35:21-27).

As is consistent with claim 23, a processor arrangement programmed and configured for transaction processing involving transaction information related to services provided by one of a plurality of vendors and processed by one of a plurality of merchant-offering providers. *See, e.g.,* FIG. 12 and discussion at pages 38:20-39:21. The processor maintains data relating to an authorized profile list criterion that includes information about authorized users empowered to authorize payment by the vendor, and determines whether the processed transaction information satisfies the authorized profile list criterion. *See, e.g.,* FIG. 12 and discussion at page 38:25-28 and 39:17-21, and following discussion with FIG. 13 at page 39:22 – 40:23. The processor further uses the authorized profile list criterion to generate information for auditing the processed transaction between said one of a plurality of vendors and said one of a plurality of merchant-offering providers (*see* id).

As is consistent with claim 26, a local processor arrangement is programmed and configured for transaction processing involving transaction information related to remote services provided by one of a plurality of vendors and remotely processed by one of a plurality of merchant-offering providers. *See, e.g.,* FIG. 12 and discussion at pages 38:20-39:21. The processor maintains data relating to an authorized profile list criterion that includes information about authorized users empowered to authorize payment by the vendor, and determines whether the remotely processed transaction information satisfies the authorized profile list criterion. *See, e.g.,* FIG. 12 and discussion at page 38:25-28 and 39:17-21, and following discussion with FIG. 13 at page 39:22 – 40:23. The processor further uses the authorized profile list criterion to generate information for auditing the remotely processed transaction between said one of a plurality of vendors and said one of a plurality of merchant-offering providers (*see* id).

VI. Grounds of Rejection and another Issue to be Reviewed Upon Appeal

    A.   Claims 13 and 16-26 stand rejected under 35 U.S.C. §102(e) as being anticipated by Henn (U.S. Patent No. 5,770,844).

    B.   Claim 27 should be deemed allowable because the Office Actions of record are silent as to this claim and fail to state any rejection thereof.

VII. Argument

As generally applicable to all of the claim rejections, the Henn reference is completely unrelated to Appellant's claimed invention as a whole and provides no disclosure that describes a processing environment involving buyers that purchase goods and/or services from vendors, with the goods and/or services provided from vendor-controlled service providers. Moreover, the Final Office Action's citations to the Henn reference are overly vague, fail to address all of the claimed limitations and stop far short of establishing correspondence under Section 102(e). These issues are respectively discussed in items 1 and 2 below, with certain claim limitations discussed separately in items 3-6.

1.   Regarding the rejection of claims 13 and 16-26, the Henn reference is completely unrelated to Appellant's claimed invention and fails to correspond on a limitation by limitation basis.

The Henn reference is significantly unrelated to the claimed invention. Appellant's invention is directed to a computer-based transaction processing method involving buyer purchases of services from a vendor (or vendor/subvendor combination), with the services carried out by a service provider. Such processing may involve, for example, the purchase of carrier services from a vendor, with the carrier services provided by a carrier service provider operating at the vendor's direction. In contrast, Henn's computer-chip credit card-type purchasing system uses information stored on a computer chip in a buyer's credit card to verify that purchases are made using the buyer's chip-authenticated card. Henn's verification (or asserted "audit") is directed to determining that the computer chip (in a buyer's card) bears data that corresponds to stored information for the buyer and a particular set of transaction data that is created during the transaction. *See*, for example, Henn's Abstract and Summary, particularly at column 2:60-61 and at column 3:25-37. Henn's approach thus attempts to ensure that the

buyer's credit card is being used for a purchase not a fraudulent card and further to verify that transaction information received from a merchant corresponds to that provided by a buyer via his or her computer chip-based card. *See, e.g.,* Col. 3: 52-62 and Col. 4: 40 to Col. 5: 7 of the Henn reference.

The Examiner has failed to show how Henn's buyer-based computer chip card purchases would correspond to vendor-based payment for services provided to a third party buyer as claimed in the instant invention. Moreover, the Examiner has ignored many of the dependent claims in the instant invention and their respective limitations, by failing to allege any correspondence whatsoever to the dependent claims, and by failing to address the Appellant's arguments regarding the same, in accordance with M.P.E.P.§707.07(f) or otherwise.

Using claim 13 as an example, the claimed invention is directed to auditing transactions between a vendor (*e.g.,* who provides services to buyers) and subvendor-controlled merchant-offering providers who carry out services that are provided by a vendor/subvendor combination (*e.g.,* services are provided to third party buyers). The end recipient of the services (or other offerings) is thus not involved in the transaction directly with the merchant-offering provider. In this context, the Henn reference's transaction-card computer chip verification approach does not and cannot carry out the functions of the claimed limitations. Henn's merchants sell directly to the buyers using a computer-chip transaction card, and on behalf of whom payment is made. Further, Henn's merchants are not controlled by subvendors as claimed (*i.e.,* Henn's buyers have no control over merchant offering providers and no such relationship exists). The Henn reference therefore not only fails to teach various claimed limitations, it has nothing to do with the claimed invention.

As is consistent with the general lack of correspondence between Henn and the invention discussed above, the Examiner has failed to provide correspondence with several more specific claim limitations. Referring again to claim 13 and as applicable to other independent claims, the Examiner has not asserted (and Appellant cannot ascertain) any discussion of limitations corresponding to the following:

a) generating transaction information prior to processing by a subvendor,

     b)   providing an authorized profile list criterion that includes information about authorized users empowered to authorize payment by a vendor (who provides services to buyers), and

     c)   determining whether transaction information satisfies such criterion.

Henn's computer chip does not use any authorized profile list criterion to generate information for auditing a transaction; rather, Henn's buyer-based computer chip card simply stores transaction-specific information that is used as a comparison in connection with transactions involving payment from a buyer (*i.e.*, a recipient of goods or services). There is no mention of any vendor or subvendor whatsoever, and no generation of information for auditing a transaction between a vendor and merchant-offering providers. Henn does not describe authorized users empowered to authorize payment by a vendor, and does not maintain any information regarding users allowed to authorize payment by the customer, let alone information concerning authorized users empowered to authorize payment by a vendor as in the claimed invention. Moreover, the transaction information in the Henn reference is generated during the transaction (*after* the transaction is initiated), and that must further include a transaction identifier that is generated by the transaction receiver (merchant) (*see, e.g.*, column 2:60-61; column 3: 25-27 and column 4: 42-47).

     In view of the above, the rejection of claims 13 and 16-26 must be reversed. Furthermore, while the above discussion and specific examples described in connection with claim 13 are generally applicable to all claims, Appellant has addressed specific limitations in certain claims in greater detail under the separate subheadings below.

2.   The Section 102(e) rejection of all of claims 13 and 16-26 fail to show any correspondence between the generally-cited portions of the Henn reference and the claimed invention, and must therefore be reversed as there is no correspondence to the claimed limitations.

     The Final Office Action rejected all of claims 13 and 16-26 in a one-paragraph rejection that essentially recites claim 13 of the instant invention, and follows the recitation with the statement: "*see* Summary of the Invention, Col. 2: 40 –Col. 5: 54)." That is, the substance of the *entire* rejection is limited to the phrase "*see* Summary of the Invention, Col. 2: 40 –Col. 5: 54)." In the Response to Arguments section of the Final Office Action, the Examiner describes aspects

of the Henn reference relating to its computer-chip card identification (again in a single paragraph), but offers no explanation as to how this identification corresponds to the limitations in any of the claims. For instance, the Examiner discusses the transfer of a data record (the computer chip information) to identify a transaction provider and to identify the transaction, yet there is no connection between this discussion and any of the claimed limitations. The Examiner has failed to even mention the limitations in various other independent claims (14, 15, 16, 23 and 26) or dependent claims. In this regard, the Examiner fails to explain where the claimed limitations are taught in a manner consistent with 35 U.S.C. § 132. Without such explanation and showing, there is no correspondence between the cited reference and the claimed limitations and Applicant is thus unable to adequately respond to the rejections. The Section 102(e) rejections must therefore be reversed.

3.   The rejection of claims 17-20 must also be reversed because the Henn reference does not disclose, and Final Office Action has not cited, any correspondence to claimed limitations as in subheading 1 above, and further directed to using multiple levels of authorization for performing business transactions.

Notwithstanding the above discussion under subheadings 1 and 2, the rejection of claims 17-20 over the Henn reference must also be reversed because the Examiner has not cited any portion of the Henn reference (or any other reference) that describes any transaction functions relating to using multiple levels of authorization to determine a user authorization, and related transaction performance. The rejection is again silent as to these claimed limitations, which depend from claim 16. The Appellant has reviewed the Henn reference and cannot ascertain any teaching of multiple-level authorization, in connection with services provided by vendors and processed by merchant-offering providers (as in parent claim 16) or otherwise. This is consistent with the above discussion regarding the Henn reference and its lack of correspondence to any of the transaction-based approaches in the instant invention. In this regard, the rejection of claims 17-20 must also be reversed because the Henn reference fails to provide correspondence to the claimed invention, including all aspects.

4.   The rejection of claims 23-25 must also be reversed because the Henn reference does not disclose, and Final Office Action has not cited, any correspondence to claimed

limitations directed to using authorized profile list criterion for (payment by) various vendor-authorized users to audit transactions.

Notwithstanding the above discussion under subheadings 1 and 2, the rejection of claims 23-25 over the Henn reference must also be reversed because the Examiner has not cited any portion of the Henn reference (or any other reference) that describes transaction functions relating to different users empowered to authorize payment for a particular vendor. The rejection does not mention these limitations, alone or in the context of a vendor that provides services that are processed by a merchant-offering provider. The Appellant has reviewed the Henn reference and cannot ascertain any such teaching. This is consistent with the above discussion regarding the Henn reference and its lack of correspondence to any of the transaction-based approaches in the instant invention. In this regard, the rejection of claims 23-25 must also be reversed because the Henn reference fails to provide correspondence to all of the claimed limitations.

5.   The rejection of claim 26 must also be reversed because the Henn reference does not disclose, and Final Office Action has not cited, any correspondence to claimed limitations directed to billing a vendor and subvendor, and to paying a merchant-offering provider and the subvendor.

Notwithstanding the above discussion under subheadings 1 and 2, the rejection of claim 26 over the Henn reference must also be reversed because the Examiner has not cited any portion of the Henn reference (or any other reference) that describes transaction functions relating to different users empowered to authorize payment for a particular vendor for remote services. The rejection does not mention these limitations, alone or in the context of a vendor that provides remote services that are remotely processed by a merchant-offering provider. The Appellant has reviewed the Henn reference and cannot ascertain any such teaching. This is consistent with the above discussion regarding the Henn reference and its lack of correspondence to any of the transaction-based approaches in the instant invention. In this regard, the rejection of claim 26 must also be reversed because the Henn reference fails to provide correspondence to all of the claimed limitations.

6.   Claim 27 should be allowed because the Final Office Action has presented no rejection of the claim, and further because the Henn reference does not provide any correspondence to these limitations.

The Final Office Action and the other Office Actions of record are silent as to the status of claim 27, which is also pending as is consistent with the Response to Restriction Requirement that was filed on June 6, 2006, indicating an election of claims 13 and 16-27. Specifically, claim 27 was added by amendment on July 9, 2003 and none of the Office Actions of record have addressed or rejected claim 27. Applicant noted this lack of any discussion (or explicit rejection) of claim 27 to the Examiner on three separate occasions, in each of three separate Office Action Responses respectively filed on October 6, 2005, November 30, 2006 and May 14, 2007. Applicant also attempted to contact the Examiner via telephone to discuss this matter before filing of this brief, but was unable to reach the Examiner and has not received a response to messages as of this filing. In view of these attempts to address claim 27 and absent an indication otherwise, Appellant has assumed that claim 27 is allowable.

Notwithstanding the above, Applicant has reviewed the cited Henn reference in an abundance of caution and cannot ascertain any subject matter that corresponds to the claimed limitations. As discussed above in item 4 regarding claims 23-25 (from which claim 27 depends), no portion of the Henn reference describes transaction functions relating to different users empowered to authorize payment for a particular vendor. In this regard, any rejection of claim 27 over the cited Henn reference would be improper because Henn fails to provide correspondence to all of the claimed limitations, and is unrelated to the claimed invention as a whole.

VIII.   **Conclusion**

In view of the above, Appellant submits that the rejections of claims 13 and 16-26 are improper, as would be any such rejection of claim 27. Appellant therefore requests reversal of the rejections as applied to the appealed claims and allowance of the entire application.

Authority to charge the undersigned's deposit account was provided on the first page of this brief.

Respectfully submitted,

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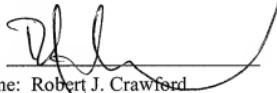
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13.   For transaction processing involving transaction information related to services provided from a vendor and one of plurality of subvendors and processed by one of a plurality of subvendor controlled merchant-offering providers, a method for validating a service transaction for auditing comprising:

generating transaction information prior to processing by subvendor;

providing an authorized profile list criterion that includes information about authorized users empowered to authorize payment by the vendor; and

using a computer arrangement, maintaining data relating to the authorized profile list criterion and processing the transaction information by determining whether the transaction information satisfies the authorized profile list criterion, and by using the authorized profile list criterion to generate information for auditing a transaction between said one of a plurality of vendors and said one of a plurality of merchant-offering providers.

16.   For transaction processing involving transaction information related to services provided by one of a plurality of vendors and processed by one of a plurality of merchant-offering providers, a transaction validation system for auditing comprising:

a central processor arrangement programmed and configured:

to maintain data relating to an authorized profile list criterion and to business rules, the business rules defined according to the authorized profile list criterion; and

to process a business transaction submitted by an authorized user, the business transaction processed by using the authorized profile list criterion to determine that the user is authorized to perform the business transaction and by applying the business rules to perform the business transaction.

17.   A transaction validation system for auditing, according to claim 16, wherein the authorized profile list criterion includes multiple levels of authorization.

18.   A transaction validation system for auditing, according to claim 17, wherein at least two of the multiple levels of authorization respectively correspond to two different payment-authorization levels.

19.   A transaction validation system for auditing, according to claim 17, wherein the central processor arrangement is further programmed and configured to provide correspondence between at least one of the levels of authorization to the requested transaction.

20.   A transaction validation system for auditing according to claim 16, wherein the transaction is completed after correspondence is provided between at least one of the levels of authorization and the requested transaction.

21.   A transaction validation system for auditing according to claim 16, wherein the authorized profile list criterion includes a plurality of attributes associated with the authorized user submitting the business transaction.

22.   A transaction validation system for auditing according to claim 16, wherein the authorized profile list criterion includes a plurality of attributes associated with the authorized user submitting the business transaction.

23.   For transaction processing involving transaction information related to services provided by one of a plurality of vendors and processed by one of a plurality of merchant-offering providers, a processor arrangement programmed and configured to:

           maintain data relating to an authorized profile list criterion that includes information about authorized users empowered to authorize payment by the vendor;

           determine whether the processed transaction information satisfies the authorized profile list criterion; and

use the authorized profile list criterion to generate information for auditing the processed transaction between said one of a plurality of vendors and said one of a plurality of merchant-offering providers.

24.   The processor arrangement of claim 23, further programmed and configured to use the authorized profile list criterion to generate information for auditing in response to the processor determining that the processed transaction information satisfies the authorized profile list criterion.

25.   The processor arrangement of claim 24, further programmed and configured to effect payment for a transaction in response to the generated information.

26.   For transaction processing involving transaction information related to remote services provided by one of a plurality of vendors and remotely processed by one of a plurality of merchant-offering providers, a local processor arrangement programmed and configured to:

maintain data relating to an authorized profile list criterion that includes information about authorized users empowered to authorize payment by the vendor;

determine whether the remotely processed transaction information satisfies the authorized profile list criterion; and

use the authorized profile list criterion to generate information for auditing the remotely processed transaction between said one of a plurality of vendors and said one of a plurality of merchant-offering providers.

27.   The local processor arrangement of claim 25, further programmed and configured to generate information for auditing transactions occurring entirely separate from the local processor arrangement.

APPENDIX OF EVIDENCE

Appellant is unaware of any evidence submitted in this application pursuant to 37 C.F.R. §§ 1.130, 1.131, and 1.132.

APPENDIX OF RELATED PROCEEDINGS

As stated in Section II above, Appellant is unaware of any related appeals, interferences or judicial proceedings.